

(a)

Humble Petition of Sir John Hamilton of Kinkell
To His Grace, and the
His Majesties High Commissioners,
and the Right Honourable the
Lords of Parliament.

The Petition of Sir John Hamilton of Kinkell

Humbly sheweth,

THAT whereas I having given in a Petition the other day, Representing, That by the claim of Right it is provided, That all Forfeitures, Fines, Pursuits, Persecutions, and Rigorous Executions, in the time of the late Reigns be considered, and the Parties leised be redressed, and that I was a great Sufferer in the late Times; My Estate by Rigorous Exactions being absolutely Ruined, and that I had several Rights belonging to me; Which I was in hazard to loose by Prescription, albeit for many years I was not *valens agere*: and therefore craving, That your Grace and Lordships, may consider my Losses and Sufferings, and fall upon some way how I might be effectually repaired, And that the thirteen years I lay under these Rigorous Executions, and Distress might be deduced from the years of Prescription; which Petition your Grace and Lordships appointed to ly upon the Table, because I did not condescend in my Petition, upon the Rights that are alledged to be prescribed. And now for the Parliaments clearing what is the Right alledged to be prescribed, as to which I crave the saids years to be deduced, I condescend that it was a discharge, and a Renunciation granted be *John Hamilton of Kinkell* my Brother of an woodset of 11200 Merks upon the Lands of *Kenaldie*, which my said Brother granted on Death-bed in favours of *Sohn Aytoun of Kenaldie*, and that without any onerous cause; Which Discharge and Renountiation was grant- in the year 1644, and I having intened a Reduction thereof upon the head of Death-bed in *June 1694*, upon which, the Lords having given a Commission for examining of witnesses; The reason of Death-bed is clearly proven: So that undoubtedly the said Discharge and Renunciation will reduce, and the Defender can have no Defence, except that he pretends pre- scriptio, and there being about 50 years or thereby, betwixt the granting of the said Renunciation, and my raising a Reduction, of which 50 years, there is to be deduced the time from the first of *November 1688*, to the 15 of *October 1689* by the late Act of Parliament in the year 1690, which will be near a year, and the eight year or thereby, more should be deduced upon the account of my Minority, so that I will want about a year or thereby to bring my action of Reduction within the years of prescription, I having been Born in the year 1631; But because it will not be possible to get an extract of my Baptism, the Session Books of the Kirk of *Duninno*, being burnt when the Readers house there was burned; And it will be most difficult to get Witnesses to prove my age, after so long a time. It is just and

reasonable

reasonable ; That seeing by the Act of Parliament about the Fines and Forcitures, persons that had suffered in the late times by forfeiture, deten-
sion, or otherwise, shall not be prejudged by short prescriptions ; I
should have the benefit of the said Act extended to me ; seeing I was do-
mesticated and intercommuned in this year 1675, for Church irregularities, &
other misdeemours in the said Act. And did ly under the same, untill the hap-
py Revolution, for the space of 13 years, during which time ; Likewise, I was
three years under an Indictment of Treason, and eighteen Moneths in prison ;
As also, during that time, there being a Garrison put into my house, who
did detain all my Writs and Papers. And after the Garrison went out of my
house, my Writs were all scattered here and there ; - And it was a long
time before I got them together, and so soon as I got them I intended the Re-
duction, by which it is evident, that for the said thirteen years I was not
valens agere ; But least the Lords of Session should make any scruple, as to
the deducing of these years, it is proper to the High Court of Parliament to
clear the same.

*It is therefore humbly craved, That your Grace, and the
Lords of the said Parliament, may be pleased to take
the Petition to your Consideration ; And subdue these
thirteen years, from the years of Prescription of the
aforesaid Right, Especially seeing, that during that
time I was intercommuned, no Lawyer would advise
with me, Nor durst any Writer to the Signet raise a
Summons at my instance, that I might interrupt the
Prescription ; As also, to be graciously pleased to fall upon
some effectuall way, that I may be Repaired of my
great Losses. And Your Petitioner shall ever
pray, &c.*

